

DATE

Chairman Roy Baas  
Addictive Disorder Regulatory Authority  
4919 Jamestown Avenue  
Baton Rouge, Louisiana 70808

Re: **Docket No. 2021-1058**  
**Advisory Opinion**

Dear Mr. Baas,

The Louisiana Board of Ethics, at its meeting on February 4, 2022, considered your request for an advisory opinion as to whether the Code of Governmental Ethics ("Code") would prohibit the Addictive Disorder Regulatory Authority ("ADRA") Executive Director from holding a license or employing individuals who hold licenses issued by ADRA.

#### FACTS PROVIDED

The Addictive Disorders Practice Act (La. R.S. 37:3386 *et seq.*) created ADRA, as an agency within the Louisiana Department of Health, to regulate the practice of addictive disorder treatment and prevention. ADRA is governed by an eight-member Board of Directors. The ADRA Board exercises all regulatory jurisdiction over the credentialing and practice of addiction counselors, prevention professionals, persons holding specialty certifications, paraprofessionals, and those in training to become addiction counselors and prevention professionals. Each category of professional subject to licensing by ADRA must meet the licensing standards required by the specific statute applicable to their license. (La. R.S. 37:3387.1 – 3387.14). The license applications are reviewed by ADRA employees to ensure all requirements are met. The license application is then presented to the ADRA Board for issuance.

The license renewal process, as set forth in La. R.S. 37:3388, requires each licensed, certified, and registered addiction counselor to renew credentials every two years by providing documentation of successful completion of 48 hours of approved continuing education courses during the two-year period prior to renewal. Renewal requirements for other credentials are provided throughout the statutes, with each license requiring a specific number of continuing education hours. (La. R.S. 37:3388.1 & 3388.2).

Pursuant to La. R.S. 37:3386.2D, ADRA is authorized to employ an Executive Director. The position is a part-time position limited to 32 hours per week. The Executive Director is responsible for monitoring operations to ensure employees, organizational practices, and all regulated individuals comply with regulatory and legal requirements of their credentials. ADRA is currently

seeking to fill the position of Executive Director and individuals who are currently licensed by ADRA have expressed interest in applying for the position.

### **ISSUE NO. 1 – RENEWAL OF AN ADRA LICENSE**

You ask whether the Code would prohibit the Executive Director from holding or renewing a license issued by ADRA. License renewals are approved automatically once the licensee submits evidence of the completion of the number of continuing education hours as required by their applicable statute. The ADRA Board does not approve renewals. You provided that the Executive Director participates in investigations of licensed members during disciplinary procedures.

### **LAW**

La. R.S. 42:1113A(1) provides that no public servant shall enter into any transaction that is under the supervision or jurisdiction of their agency.

La. R.S. 42:1102(2)(a)(i) defines “agency,” in the case of public servants who are members or employees of a board or commission or who provide staff assistance to a board or commission, to mean the board or commission.

La. R.S. 42:1112A provides that no public servant shall participate in a transaction in which he has a personal substantial economic interest of which he may be reasonably expected to know involving the governmental entity.

La. R.S. 42:1112C provides that every public employee shall disqualify himself from participating in a transaction involving the governmental entity when a violation of the Code would result.

### **CONCLUSION**

As an employee of ADRA, the Executive Director’s agency will be ADRA. Generally, R.S. 42:1113A will prohibit the Executive Director from entering into a transaction that is under the supervision or jurisdiction of ADRA. However, in *Hill v. Commission on Ethics for Public Employees*, 453 So.2d 558 (La. 1984), the Louisiana Supreme Court concluded that a member of the Cosmetology Board could renew a license for a beauty shop and a license to practice cosmetology since those renewals were “routine and mechanical,” in that those renewals were issued in accordance with the rules and procedures of the agency and did not otherwise require action by the Cosmetology Board.

Here, the renewal of an ADRA-issued license is granted once the licensee meets the requirements of the individual statute, and do not require action on the part of the ADRA Board or the Executive Director. As such, the renewal of an ADRA license would be “routine and mechanical.”

For this reason, the Board concluded, and instructed me to inform you, that the Code would not prohibit the Executive Director from renewing a license with ADRA.

The Board further instructed me to caution you that, in the event the Executive Director is the subject of a disciplinary investigation, the Executive Director is prohibited by R.S. 42:1112A from

participating in those proceedings in his public capacity. The ADRA Board should develop a disqualification plan pursuant to R.S. 42:1112C to prevent a potential violation of the Code in the event this should occur.

## **ISSUE NO. 2 – OUTSIDE PRACTICE**

You ask whether the Code would prohibit the Executive Director from outside practice using their ADRA issued license. You stated that ADRA would limit any such practice to hours not working for ADRA.

### **LAW**

La. R.S. 42:1111C(1)(a) provides that no public servant shall receive any thing of economic value for any service, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the agency of the public servant and in which the public servant has participated.

La. R.S. 42:1111C(2)(d) provides that no public servant and no legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, shall receive any thing of economic value for or in consideration of services rendered, or to be rendered, to or for any person who: (1) has a contractual, business, or financial relationship with the public servant's agency; (2) conducts operations or activities which are regulated by the public employee's agency; and (3) has substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duty.

### **CONCLUSION**

The Board concluded, and instructed me to inform you, that, generally, the Code does not prohibit the Executive Director from holding an outside practice. However, R.S. 42:1111C(1)(a) will prohibit the Executive Director from receiving compensation for any service that is substantially related to the responsibilities of ADRA. Additionally, R.S. 42:1111C(2)(d) will prohibit the Executive Director from receiving compensation for any services performed for a person who would be considered a prohibited source. An information sheet regarding prohibited sources is attached.

In the event the Executive Director wishes to perform outside services, the Executive Director should request an additional advisory opinion regarding the specific circumstances of the services to be performed.

## **ISSUE NO. 3 – FACILITY OWNER**

You stated that an applicant for the Executive Director position owns a facility that employs individuals licensed by ADRA. The facility owner does not hold a license from ADRA, and only provides administrative supervision and financial oversight over the facility. You stated that ADRA does not license facilities, only individuals. You ask whether the Code would prohibit the facility owner from being employed as Executive Director.

## CONCLUSION

The Board concluded, and instructed me to inform you, that the Code does not prohibit a facility owner from being employed as Executive Director. However, R.S. 42:1111C(2)(d) (above) will prohibit the Executive Director from receiving any thing of economic value from any individual who would be considered a prohibited source, including a person who conducts operations or activities which are governed by ADRA.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. Please note that the Board issues no opinion as to past conduct and that the Board's expressed opinion is limited to an examination of the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Acts, and the conflict of interest provisions in the gaming laws.

If you have any questions, please contact me at (800)842-6630 or (225)219-5600.

Sincerely,

**LOUISIANA BOARD OF ETHICS**

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David M. Bordelon  
For the Board

**DISCLAIMER**  
This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics. No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only, and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.